

Message Text

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TO AMEMBASSY LAGOS

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E.O. 11652: N/A

TAGS: BBAK, PFOR, BDIS, EINV, NI, US

SUBJECT: BILATERAL AGREEMENT CONCERNING LOCKHEED AIRCRAFT
CORP.

REF: STATE 089181

AGREEMENT ENTITLED QUOTE PROCEDURES FOR MUTUAL ASSISTANCE IN
THE ADMINISTRATION OF JUSTICE IN CONNECTION WITH THE LOCK-
HEED AIRCRAFT CORPORATION MATTER UNQUOTE WAS SIGNED IN
WASHINGTON APRIL 20 BY AMBASSADOR EDWARD O. SANU FOR THE FMG
MINISTRY OF JUSTICE AND BY ASSISTANT ATTORNEY GENERAL RICH-
ARD A. THORNBURGH FOR THE U.S. DEPARTMENT OF JUSTICE. PRESS
AND PHOTOGRAPHERS WITNESSED THE SIGNING. TEXT OF AGREEMENT
FOLLOWS:

QUOTE THE UNITED STATES DEPARTMENT OF JUSTICE AND THE
NIGERIAN MINISTRY OF JUSTICE, HEREINAFTER REFERRED TO AS
QUOTE THE PARTIES UNQUOTE, CONFIRM THE FOLLOWING PROCEDURES
IN REGARD TO MUTUAL ASSISTANCE TO BE RENDERED TO AGENCIES
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WITH LAW ENFORCEMENT RESPONSIBILITIES IN THEIR RESPECTIVE

COUNTRIES WITH RESPECT TO ALLEGED ILLICIT ACTS PERTAINING TO THE SALES ACTIVITIES IN NIGERIA OF THE LOCKHEED AIRCRAFT CORPORATION AND ITS SUBSIDIARIES OR AFFILIATES:

1. ALL REQUESTS FOR ASSISTANCE SHALL BE COMMUNICATED BETWEEN THE PARTIES THROUGH THE DIPLOMATIC CHANNEL.
2. UPON REQUEST, THE PARTIES SHALL USE THEIR BEST EFFORTS TO MAKE AVAILABLE TO EACH OTHER RELEVANT AND MATERIAL INFORMATION, SUCH AS STATEMENTS, DEPOSITIONS, DOCUMENTS, BUSINESS RECORDS, CORRESPONDENCE OR OTHER MATERIALS, AVAILABLE TO THEM CONCERNING ALLEGED ILLICIT ACTS PERTAINING TO THE SALES ACTIVITIES IN NIGERIA OF THE LOCKHEED AIRCRAFT CORPORATION AND ITS SUBSIDIARIES OR AFFILIATES.
3. SUCH INFORMATION SHALL BE USED EXCLUSIVELY FOR PURPOSES OF INVESTIGATION CONDUCTED BY AGENCIES WITH LAW ENFORCEMENT RESPONSIBILITIES AND IN ENSUING CRIMINAL, CIVIL AND ADMINISTRATIVE PROCEEDINGS, HEREINAFTER REFERRED TO AS QUOTE LEGAL PROCEEDINGS UNQUOTE.
4. EXCEPT AS PROVIDED IN PARAGRAPH 5, ALL SUCH INFORMATION MADE AVAILABLE BY THE PARTIES PURSUANT TO THESE PROCEDURES, AND ALL CORRESPONDENCE BETWEEN THE PARTIES RELATING TO SUCH INFORMATION AND TO THE IMPLEMENTATION OF THESE PROCEDURES, SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THIRD PARTIES OR TO GOVERNMENT AGENCIES HAVING NO LAW ENFORCEMENT RESPONSIBILITIES. DISCLOSURE TO OTHER AGENCIES HAVING LAW ENFORCEMENT RESPONSIBILITIES SHALL BE CONDITIONED ON THE RECIPIENT AGENCY'S ACCEPTANCE OF THE TERMS SET FORTH HEREIN.

IN THE EVENT OF BREACH OF CONFIDENTIALITY, THE OTHER PARTY MAY DISCONTINUE COOPERATION UNDER THESE PROCEDURES.

5. INFORMATION MADE AVAILABLE PURSUANT TO THESE PROCEDURES MAY BE USED FREELY IN ENSUING LEGAL PROCEEDINGS IN THE REQUESTING STATE IN WHICH AN AGENCY OF THE REQUESTING STATE HAVING LAW ENFORCEMENT RESPONSIBILITIES IS UNCLASSIFIED

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A PARTY, AND THE PARTIES SHALL USE THEIR BEST EFFORTS TO FURNISH THE INFORMATION FOR PURPOSES OF SUCH LEGAL PROCEEDINGS IN SUCH FORM AS TO RENDER IT ADMISSIBLE PURSUANT TO THE RULES OF EVIDENCE IN EXISTENCE IN THE REQUESTING STATE, INCLUDING, BUT NOT LIMITED TO, CERTIFICATIONS, AUTHENTICATIONS, AND SUCH OTHER ASSISTANCE AS MAY BE NECESSARY TO PROVIDE THE FOUNDATION FOR THE ADMISSIBILITY OF EVIDENCE.

6. THE PARTIES SHALL GIVE ADVANCE NOTICE AND AFFORD AN OPPORTUNITY FOR CONSULTATION PRIOR TO THE USE, WITHIN THE MEANING OF PARAGRAPH 5, OF ANY INFORMATION MADE AVAILABLE PURSUANT TO THESE PROCEDURES.

7. UPON REQUEST, THE PARTIES AGREE TO PERMIT THE INTERVIEWING OF PERSONS IN THEIR RESPECTIVE COUNTRIES BY LAW ENFORCEMENT OFFICIALS OF THE OTHER PARTY, PROVIDED ADVANCE NOTICE IS GIVEN OF THE IDENTITY OF THE PERSONS TO BE INTERVIEWED AND OF THE PLACE OF THE INTERVIEW. REPRESENTATIVES OF THE OTHER PARTY MAY BE PRESENT AT SUCH INTERVIEWS. THE PARTIES WILL ASSIST EACH OTHER IN ARRANGING FOR SUCH INTERVIEWS AND WILL PERMIT THE TAKING OF TESTIMONY OR STATEMENTS OR THE PRODUCTION OF DOCUMENTS AND OTHER MATERIALS IN ACCORDANCE WITH THE PRACTICE OR PROCEDURE OF THE REQUESTING STATE. THE REQUESTING PARTY SHALL NOT PURSUE ITS REQUEST FOR AN INTERVIEW OR FOR THE PRODUCTION OF DOCUMENTS AND OTHER MATERIALS IF THE REQUESTED PARTY CONSIDERS THAT IT WOULD INTERFERE WITH AN ONGOING INVESTIGATION OR PROCEEDING BEING CONDUCTED BY THE AUTHORITIES OF THE REQUESTED PARTY.

8. THE PARTIES SHALL USE THEIR BEST EFFORTS TO ASSIST IN THE EXPEDITIOUS EXECUTION OF LETTERS ROGATORY ISSUED BY THE JUDICIAL AUTHORITIES OF THEIR RESPECTIVE COUNTRIES IN CONNECTION WITH ANY LEGAL PROCEEDINGS WHICH MAY ENSUE IN THEIR RESPECTIVE COUNTRIES.

9. THE ASSISTANCE TO BE RENDERED TO A REQUESTING STATE SHALL NOT BE REQUIRED TO EXTEND TO SUCH ACTS BY THE AUTHORITIES OF THE REQUESTED STATE AS MIGHT RESULT IN THE IMMUNIZATION OF ANY PERSON FROM PROSECUTION IN THE UNCLASSIFIED

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REQUESTED STATE.

10. ALL ACTIONS TO BE TAKEN BY A REQUESTED STATE WILL BE PERFORMED SUBJECT TO ALL LIMITATIONS IMPOSED BY ITS DOMESTIC LAW. EXECUTION OF A REQUEST FOR ASSISTANCE MAY BE POSTPONED OR DENIED IF EXECUTION WOULD INTERFERE WITH AN ONGOING INVESTIGATION OR LEGAL PROCEEDING IN THE REQUESTED STATE.

11. NOTHING CONTAINED HEREIN SHALL LIMIT THE RIGHTS OF THE PARTIES TO UTILIZE FOR ANY PURPOSE INFORMATION WHICH IS OBTAINED BY THE PARTIES INDEPENDENT OF THESE PROCEDURES.

12. THE MUTUAL ASSISTANCE TO BE RENDERED BY THE PARTIES PURSUANT TO THESE PROCEDURES IS DESIGNED SOLELY FOR THE

BENEFIT OF THEIR RESPECTIVE AGENCIES HAVING LAW ENFORCE-
MENT RESPONSIBILITIES AND IS NOT INTENDED OR DESIGNED TO
BENEFIT THIRD PARTIES OR TO AFFECT THE ADMISSIBILITY OF
EVIDENCE UNDER THE LAWS OF EITHER THE UNITED STATES OR
NIGERIA. UNQUOTE.

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